

REMARKS

Claims 25-36 are currently pending in this application, which are subject to election of species as described in the below.

As requested, an initial Sequence Listing and all of required documents under 37 CFR 1.821-1.825 are submitted herewith for the sequences contained in Figures 4A, 4B and 4C.

No new matter has been introduced.

I. Restriction Requirement

The Examiner indicates in the Official Action that the present application contains claims directed to more than one species of the generic invention. The Examiner further indicates that the species, as set forth below, lack unity because they are not so linked to form a single general inventive concept under PCT Rule 13.1, and has required election of a single specific species from each of the following:

- A. A single specific species of X-R (i.e. bifunctional agent; claims 25 and 26).
- B. A single, specific species of support (claims 28, 29, 30, and 31).
- C. A single, specific species of complexing agent (claim 34).

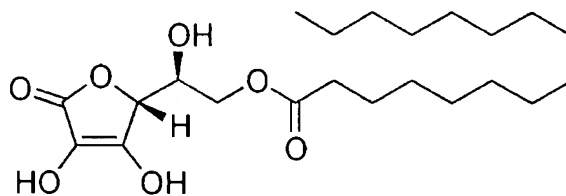
Further, regarding the election of a single specific species of X-R, the Examiner indicates that Applicants must provide a complete final structure of bifunctional agent including all bonds, R groups and n.

II. Provisional Election

Applicants elect, with traverse, the single specific species as follows.

- A. "Ascorbic acid," as for the X, and
"-O-CO-C_nH_(2n+1)" with n = 15," as for R;
- B. "Polyacrylamide," as for a support; and
- C. "EDTA," as for a complexing agent.

In accordance with the election, Applicants provide a full and complete structure of bifunctional agent, i.e., "ascorbyl palmitate," as follows:



Further, as required by the Examiner Applicants submit that the claims that read upon the elected species are as follows:

- i. Ascorbyl palmitate: claims 25-36;
- ii. Polyacrylamide: claims 25-29 and 32-36; and
- iii. EDTA: claims 25-36.

Applicants note that upon allowance of a generic claim, Applicants will be entitled to consideration of claims to additional species which are written in dependent form or otherwise include all the limitations of an allowed generic claim as provided by 37 C.F.R. § 1.141.

III. Traversal

Applicants respectfully traverse the election requirement. Applicants assert that the election of species requirement is improper because it does not comply with the criteria for restriction and for an election of species, as specified in 35 USC 121, 37 CFR 1.141-146, and MPEP 801-818.

Applicants assert that there is no support for the election of species requirement because the Examiner has provided no reasoning as to why the asserted species are "independent" or "distinct." That is, the Examiner has neither suggested an example of a separate utility nor has shown separate classification, status, or field of search (MPEP 808.02 (A-C)).

In this regard, MPEP 803 specifies that restriction/election between two groups of claims is only proper when (1) one group of claims is independent **or** distinct from another group of claims and (2) a "serious burden" exists on the examiner in examining both groups of claims. Two or more species are independent if there is no disclosed relationship between them, i.e., they are unconnected in design, operation, or effect (MPEP 802.01). Two or more species are distinct if, as disclosed, they are related but are capable of separate manufacture, use, or sale, as claimed and are patentable over each other (MPEP 802.01, 806.05). The Examiner can show a "serious burden" by establishing one of: the inventions are classified separately; the inventions have been classified together, but it can be shown that each subject has formed a separate subject for inventive effort (can cite patents or show a separate field of search); or the inventions require a separate field of search,

that is, it is necessary to search for one subject in a place where no pertinent art for the other subject exists (MPEP 808.02 (c)).

Because the Examiner is alleging that the species are independent and distinct, the Examiner must show that they are independent (i.e., they are unconnected in design, operation, or effect) or must show two-way distinctness and reasons for insisting on restriction, i.e., separate classification, status, or field of search.

In the present application, Applicants submit that, first, with respect to the election of "X" and "R", X has already been defined in claim 1 as being "ascorbic acid," therefore the election is not required. With respect to "R," the Examiner argues that the species do not relate to a single general inventive concept under PCT Rule 13.1 because they are structurally and/or functionally different. However, as described in the originally filed specification, the present claims are based on the finding that a bifunctional agent, like ascorbyl palmitate, can bind, with its hydrophobic moiety, i.e., the palmitate moiety, to two proteins wherein it can reduce silver ions, with its reducing moiety, i.e., the ascorbyl moiety. However, the exact length of the reducing moiety is, within a certain range as claimed, not important. For example, a reducing moiety with a chain length of 12 to 14 carbon atoms does bind to a protein as good as a moiety with 17 or 19 carbon atoms. Accordingly, the reducing moiety is defined as $R-O-CO-C_nH_{(2n+1)}$ with $n = 8$ to 21, in claim 1. In other words, all $C_nH_{(2n+1)}$ with $n = 8$ to 21 are functionally equal in the context of the present subject matter.

In addition, Applicants assert that a complete and thorough search of the subject matter described in the provisionally elected species set forth above would require searching the art areas appropriate to all other subject matter contained in this application. Since a search of the subject matter of the provisionally elected species and all other subject matter contained in this application would be coextensive, it would ***not*** be a ***serious burden*** upon the Examiner to conduct a search of ***all*** subject matter contained in this application.

As such, Applicants respectfully request that the Examiner reconsider the election requirement and examine all the species as claimed in the present application.

IV. Sequence Compliance

The Examiner requested in the Official Action to submit a sequence listing for all of sequences contained in Figures 4A, 4B and 4C. As requested, attached hereto are i) a paper copy of Sequence Listing for all of the sequences recited in Figures 4A, 4B and 4C under 37 CFR 1.821(c), ii) a computer readable form (CRF) of Sequence Listing under 37 CFR 1.821(e), iii) a Statement that the content of the paper and the CRF are the same, and iv) an Amendment directing the entry of Sequence Listing in the application.

Accordingly, Applicants submit that the present application fully comply with the requirement under 37 CFR 1.821 – 1.825. Withdrawal of this objection is, therefore, respectfully requested.

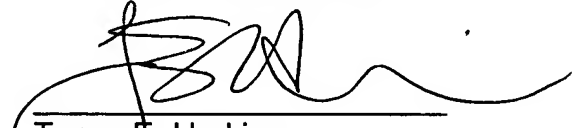
CONCLUSION

In view of the foregoing, Applicants respectfully request the Examiner to examine all pending claims.

The Examiner is welcomed to contact the undersigned attorney at the below-listed number and address with any questions or comments regarding this matter.

Respectfully submitted,

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